

DANIEL L. SIMMONS, JR., as Personal
Representative of the ESTATE OF DANIEL
L. SIMMONS, SR.,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

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) Civil Action No. 2:16-cv-2378-MBS
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**PETITION TO APPROVE
SETTLEMENT FOR SURVIVAL AND
WRONGFUL DEATH**

The duly appointed Personal Representative of the Estate of Daniel L. Simmons, Sr. petitions the Court pursuant to the Federal Tort Claim Act (FTCA) and S.C. Code Ann. § 15-51-42 for approval of the settlement of a wrongful death and survival action, and would show unto this Honorable Court as follows:

1. The Personal Representative has reached a proposed settlement with Defendant for wrongful death and survival as set forth in this Petition. That proposed settlement is memorialized in the Stipulation for Compromise Settlement and Release of Federal Tort Claims Act Claims Pursuant to 28 U.S.C. § 2677, attached as **Exhibit A** hereto.

2. Daniel L. Simmons, Sr. (the “Decedent”) was a victim of the Mother Emanuel murder and died as a result of gunshot wounds on or about June 17, 2015, in Charleston, South Carolina, and brought claims against Defendant as more fully set forth in the Complaint and Amended Complaint on file herein.

3. Defendant denies any liability with respect to the claims and death of the Decedent but has negotiated the settlement herein as a reasonable compromise of disputed claims.

4. Defendant is not insured for claims such as that presented by the Decedent but allows for such claim under the FTCA.

5. The terms of the proposed settlement include the payment of \$6,500,000.00 to Daniel L. Simmons, Jr. as the Personal Representative of the Estate of Daniel L. Simmons, Sr. for the survival and wrongful death actions.

6. The statutory beneficiaries of the Decedent under the wrongful death statute are Daniel Simmons, Jr., surviving son and Rose Simmons, surviving daughter.

7. The Decedent had a Will, and the heirs at law of the Decedent are also Daniel Simmons, Jr., surviving son and Rose Simmons, surviving daughter.

8. All creditors of the Estate will be paid in full upon the filing of the within Petition and closing administration of the Estate.

9. The Personal Representative set forth below has retained counsel listed below and agreed to pay the sum of 25% of the amount recovered for attorney's fees and \$50,083.71 for costs and \$79,796.71 for Estate Claims and Advance Liens as set forth on **Exhibit B** attached hereto.

10. The Petitioner believes the settlement is in the best interest of the Estate and beneficiaries.

WHEREFORE, the duly authorized Personal Representative of the Estate of Daniel L. Simmons, Sr. petitions this Court as follows:

1. To approve the settlement with Defendant in the amount of \$6,500,000.00, and subject to all terms and conditions set forth in the Stipulation for Compromise Settlement and Release of Federal Tort Claims Act Claims Pursuant to 28 U.S.C. § 2677, attached hereto as **Exhibit A** payable to Daniel L. Simmons, Jr. as Personal Representative of the Estate of Daniel L. Simmons, Sr. for the survival and wrongful death actions, as set forth in this Petition and to execute such further documents as necessary to effectuate settlement;

2. To relieve and discharge Defendant from further liability and all obligations or legal duties to see to the appropriate or proper distribution of the settlement proceeds in accordance the FTCA and with S.C. Code Ann. §15-51-42(E);
3. For an Order providing that, upon payment to the Estate of Daniel L. Simmons, Sr., the obligations of Defendant be fully and completely released and finally and forever discharged from any further responsibility in connection with the death of Daniel L. Simmons, Sr.; and
4. For an order that attorneys' fees and disbursements as set forth in **Exhibit B** be approved and that the settlement proceeds be distributed as set forth on **Exhibit B**.

RESPECTFULLY SUBMITTED,

By: s/ Carl E. Pierce, II

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Attorneys for Plaintiff

Charleston, South Carolina

October 28, 2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

VERIFICATION

PERSONALLY APPEARED BEFORE ME, Daniel L. Simmons, Jr., in his capacity as Personal Representatives of the Estate of Daniel L. Simmons, Sr., who being duly sworn, deposes and say that he is the Petitioner in the foregoing action; that he has read the Petition to Approve Settlement for Survival and Wrongful Death, and the same is true and correct of his own knowledge, save and except those matters and things therein alleged on information and belief; and, as to those matters and things, they believe the same to be true and correct.



DANIEL L. SIMMONS, JR. (w/ permission)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

DANIEL L. SIMMONS, JR., as Personal)	
Representative of the ESTATE OF DANIEL)	Civil Action No. 2:16-cv-2378-MBS
L. SIMMONS, SR.,)	
)	
Plaintiff,)	
)	CERTIFICATION OF LEGAL
v.)	COUNSEL
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

I, Carl E. Pierce, II, attorney for Claimant Daniel L. Simmons, Jr. as Personal Representative of the Estate of Daniel L. Simmons, Sr., certifies as follows:

1. I have read the Petition to Approve Settlement for Survival and Wrongful Death.
2. I am of the opinion that the settlement is fair and reasonable and in the best interest of the wrongful death statutory beneficiaries and the Estate of Daniel L. Simmons, Sr.

By: s/ Carl E. Pierce, II

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